

25,390-L (I.R.C.)

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agency thereof the amount disallowed or the amount disallowed is applied as an offset against other amounts due the taxpayer, the amount of the reimbursement of the taxpayer under the contract for the taxable year in which the reimbursement for such item was received or was accrued shall be reduced by the amount disallowed.

(3) **Deduction disallowed.**—The amount of the payment, repayment, or offset described in paragraph (1) or paragraph (2) shall not constitute a deduction for the year in which paid or incurred.

(4) **Exception.**—The foregoing provisions of this subsection shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the Secretary or his delegate that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method, which for the purposes of subsections (b) and (c) shall be considered a prior taxable year.

(b) **Credit Against Repayment on Account of Renegotiation or Allowance.**—

(1) **General rule.**—There shall be credited against the amount of excessive profits eliminated the amount by which the tax for the prior taxable year under this subtitle is decreased by reason of the application of paragraph (1) of subsection (a); and there shall be credited against the amount disallowed the amount by which the tax for the prior taxable year under this subtitle is decreased by reason of the application of paragraph (2) of subsection (a).

(2) **Credit for barred year.**—If at the time of the payment, repayment, or offset described in paragraph (1) or paragraph (2) of subsection (a), refund or credit of tax under this subtitle for the prior taxable year is prevented (except for the provisions of section 1311) by any provision of the internal revenue laws other than section 7122, or by rule of law, the amount by which the tax for such year under this subtitle is decreased by the application of paragraph (1) or paragraph (2) of subsection (a) shall be computed under this paragraph. There shall first be ascertained the tax previously determined for the prior taxable year. The amount of the tax previously determined shall be the excess of—

(A) the sum of—

(i) the amount shown as the tax by the taxpayer on his return (determined as provided in section 6211(b)(1) and (3)), if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(ii) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(B) the amount of rebates, as defined in section 6211(b)(2), made. There shall then be ascertained the decrease in tax previously determined which results solely from the application of paragraph (1) or paragraph (2) of subsection (a) to the prior taxable year. The amount so ascertained, together with any amounts collected as additions to the tax or interest, as a result of paragraph (1) or paragraph (2) of subsection (a) not having been applied to the prior taxable year, shall be the amount by which such tax is decreased.

(3) **Interest.**—In determining the amount of the credit under this subsection no interest shall be allowed with respect to the amount ascer-

[X58] Internal Revenue Code of 1954 (I.R.C.) 25,390-K
profits to the Treasury as provided by subsection (a), and to refunds by
the Treasury of overpayments of excess profits into the Treasury.

**SUBCHAPTER B—MITIGATION OF EFFECT OF RENE-
GOTIATION OF GOVERNMENT CONTRACTS**

Sec. 1481. Mitigation of effect of renegotiation of government
contracts.

Sec. 1482. Readjustment for repayments made pursuant to price
redeterminations.

**SEC. 1481. MITIGATION OF EFFECT OF RENEGOTIATION OF
GOVERNMENT CONTRACTS.**

(a) Reduction for Prior Taxable Year.—

(1) **Excessive profits eliminated for prior taxable year.**—In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (referred to in this section as "prior taxable year") is eliminated and, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated or the amount of excessive profits eliminated is applied as an offset against other amounts due the taxpayer, the part of the contract or subcontract price which was received or was accrued for the prior taxable year shall be reduced by the amount of excessive profits eliminated. For purposes of this section—

(A) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of the Federal renegotiation act applicable to such transaction, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

(B) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by the applicable Federal renegotiation act, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

(C) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by the applicable Federal renegotiation act.

(D) The term "Federal renegotiation act" includes section 403 of the Sixth Supplemental National Defense Appropriation Act (Public Law 528, 77th Cong., 2d Sess.), as amended or supplemented, the Renegotiation Act of 1948, as amended or supplemented, and the Renegotiation Act of 1951, as amended or supplemented.

(2) **Reduction of reimbursement for prior taxable year.**—In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and the taxpayer is required to repay the United States or any

[X58]

Internal Revenue Code of 1954 (*I.R.C.*) 25,390-M

tained under paragraph (1); except that if interest is charged by the United States or the agency thereof on account of the disallowance for any period before the date of the payment, repayment, or offset, the credit shall be increased by an amount equal to interest on the amount ascertained under such paragraph at the same rate and for the period (prior to the date of the payment, repayment, or offset) as interest is so charged.

(c) **Credit in Lieu of Other Credit or Refund.**—If a credit is allowed under subsection (b) with respect to a prior taxable year no other credit or refund under the internal-revenue laws founded on the application of subsection (a) shall be made on account of the amount allowed with respect to such taxable year. If the amount allowable as a credit under subsection (b) exceeds the amount allowed under such subsection, the excess shall, for purposes of the internal revenue laws relating to credit or refund of tax, be treated as an overpayment for the prior taxable year which was made at the time the payment, repayment, or offset was made.

(d) **Renegotiation of Government Contracts Affecting Taxable Years Prior to 1954.**—If a recovery of excessive profits through renegotiation as described in this section relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect of such renegotiation shall be made under section 3806 of such code.

SEC. 1482. READJUSTMENT FOR REPAYMENTS MADE PURSUANT TO PRICE REDETERMINATIONS.

(a) **General Rule.**—If, pursuant to a price redetermination provision in a subcontract to which this section applies, a repayment with respect to an amount paid under the subcontract is made by one party to the subcontract (hereinafter referred to as the "payor") to another party to the subcontract (hereinafter referred to as the "payee"), then—

(1) the tax of the payor for prior taxable years shall be recomputed as if the amount received or accrued by him with respect to which the repayment is made did not include an amount equal to the amount of the repayment, and

(2) the tax of the payee for prior taxable years shall be recomputed as if the amount paid or incurred by him with respect to which the repayment is made did not include an amount equal to the amount of the repayment.

(b) **Subcontracts to Which Section Applies.**—Subsection (a) shall apply only to a subcontract which is subject to renegotiation under the applicable Federal renegotiation act.

(c) **Limitation.**—Subsection (a) shall not apply to any repayment to the extent that section 1481 applies to the amount repaid.

(d) **Treatment in Year of Repayment.**—The amount of any repayment to which subsection (a) applies shall not be taken into account by the payor or payee for the taxable year in which the repayment is made; but any overpayment or underpayment of tax resulting from the application of subsection (a) shall be treated as if it were an overpayment or underpayment for the taxable year in which the repayment is made.

Addition.—Sec. 1482 was added by Sec. 62(a) of Public Law 85-866, Sept. 2, 1958, effective (Sec. 62(c) of Public Law 85-866, Sept. 2, 1958) as to subcontracts entered into after Dec. 31, 1957.

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§ 1482(d)
No. A255